

Section 2 of Pub. L. 96-328 provided that: “The amendment made by subsection (a) of the first section of this Act [amending subsecs. (b) and (c) of this section] shall apply to liability for property issued by the United States to the National Guard that is lost, damaged, or destroyed on or after October 1, 1980. Liability for such property that is lost, damaged, or destroyed before such date shall be governed by the provisions of section 710 of title 32, United States Code, as in effect on the day before the date of the enactment of this Act [Aug. 8, 1980].”

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85-861, set out as a note under section 101 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 509 of this title.

§ 711. Disposition of obsolete or condemned property

Each State and Territory, Puerto Rico, and the District of Columbia shall, upon receiving new property issued to its National Guard to replace obsolete or condemned issues of property, return the replaced property to the Department of the Army or the Department of the Air Force, as the case may be, or otherwise dispose of it, as the Secretary concerned directs. No money credit may be allowed for property disposed of under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 616; Pub. L. 100-456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
711	32:46.	June 3, 1916, ch. 134, §85, 39 Stat. 204.

The words “to its National Guard” are inserted for clarity. The word “it” is substituted for the words “all property so replaced or condemned”. The last sentence is substituted for 32:46 (last 8 words).

AMENDMENTS

1988—Pub. L. 100-456 struck out “the Canal Zone,” after “Puerto Rico,”.

§ 712. Disposition of proceeds of condemned stores issued to National Guard

The following shall be covered into the Treasury:

- (1) The proceeds from sales of condemned stores issued to the National Guard of a State or Territory, Puerto Rico, or the District of Columbia, and not charged against its allotment.
- (2) The net proceeds from collections made from any person to reimburse the United States for the loss or destruction of, or damage to, property described in clause (1).
- (3) Stoppage against members of the National Guard for the loss or destruction of, or damage to, property described in clause (1).

(Aug. 10, 1956, ch. 1041, 70A Stat. 616; Pub. L. 100-456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
712	32:45.	June 3, 1916, ch. 134, §88, 39 Stat. 205; Oct. 31, 1951, ch. 654, §3(5), 65 Stat. 708.

The introductory clause is substituted for the words “shall be covered into the Treasury of the United States” and “as shall also”. The words “United States” are substituted for the word “Government”. The words “members of the National Guard” are substituted for the words “officers and enlisted men”.

AMENDMENTS

1988—Par. (1). Pub. L. 100-456 struck out “the Canal Zone,” after “Puerto Rico,”.

§ 713. Official mail: free transmission

Units and headquarters of the National Guard, whether or not in Federal service, have the same privilege of free mailing of official matter as the Department of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 617.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
713	32:196.	Aug. 1, 1953, ch. 305, §643, 67 Stat. 357.

The word “Hereafter” is omitted as executed. The words “and the Air National Guard” are omitted, since “National Guard”, as defined in section 101(2) of this title, includes the Army National Guard and the Air National Guard. The words “Federal service” are substituted for the words “active service of the United States”. The words “mailing of official matter” are substituted for the words “transmission of official mail matter”.

§ 714. Final settlement of accounts: deceased members

(a) In the settlement of the accounts of a member of the National Guard who dies after December 31, 1955, an amount due from the armed force of which he was a member shall be paid to the person highest on the following list living on the date of death:

- (1) Beneficiary designated by him in writing to receive such an amount, if the designation is received, before the deceased member's death, at the place named in regulations to be prescribed by the Secretary concerned.
- (2) Surviving spouse.
- (3) Children and their descendants, by representation.
- (4) Father and mother in equal parts or, if either is dead, the survivor.
- (5) Legal representative.
- (6) Person entitled under the law of the domicile of the deceased member.

(b) Designations and changes of designation of beneficiaries under subsection (a)(1) are subject to regulations to be prescribed by the Secretary concerned. So far as practicable, these regulations shall be uniform with those prescribed for the armed forces under section 2771(b) of title 10.

(c) Under such regulations as the Secretary concerned may prescribe, payments under subsection (a) shall be made by the Department of

the Army or the Department of the Air Force, as the case may be.

(d) A payment under this section bars recovery by any other person of the amount paid.

(Added Pub. L. 85-861, §2(12), Sept. 2, 1958, 72 Stat. 1546; amended Pub. L. 87-46, June 16, 1961, 75 Stat. 92; Pub. L. 104-316, title II, §202(q), Oct. 19, 1996, 110 Stat. 3844.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
714(a)	37:361. 37:362. 37:365.	July 12, 1955, ch. 328, §§1-3, 4 (less proviso), 5 (1st sentence), 69 Stat. 295, 296.
714(b)	37:364 (less proviso).	
714(c)	37:363 (less last sentence).	
714(d)	37:363 (last sentence).	

In subsection (a), the definition of the term "Department", in 37:361, is omitted as unnecessary, since the particular departments referred to are spelled out in the revised text. The definition of the term "uniformed services", in 37:361, is omitted as covered by the word "member" in this revised section. Clauses (1)-(6) are substituted for the last 5 clauses of 37:362. The words "regulations to be prescribed by the Secretary concerned" are substituted for the words "regulations of the Department concerned", since the "Department", as such, cannot issue regulations.

In subsection (a)(2), the words "Surviving spouse" are substituted for the words "widow or widower". As defined in section 101(18) of this title, "spouse" includes a widower.

In subsection (b), the words "are subject to" are substituted for the words "shall be made under".

In subsection (c), the word "Under" is substituted for the words "Subject to". The words "rules and" are omitted as surplusage.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-316, in first sentence, substituted "Secretary concerned" for "Comptroller General" and struck out at end "Payment under clause (6) of subsection (a) shall be made—

"(1) upon settlement by the General Accounting Office; or

"(2) as otherwise authorized by the Comptroller General."

1961—Subsec. (c). Pub. L. 87-46 substituted "Payment under clause (6) of subsection (a) shall be made—

"(1) upon settlement by the General Accounting Office; or

"(2) as otherwise authorized by the Comptroller General."

for "Payments under clauses (2)-(6) of subsection (a) may be paid only after settlement by the General Accounting Office."

DESIGNATION OF BENEFICIARY MADE BEFORE JANUARY 1, 1956

Designation of beneficiary made before Jan. 1, 1956, considered as the designation of a beneficiary for the purposes of this section, see note set out under section 2771 of Title 10, Armed Forces.

§ 715. Property loss; personal injury or death: activities under certain sections of this title

(a) Under such regulations as the Secretary of the Army or Secretary of the Air Force may prescribe, he or, subject to appeal to him, the Judge Advocate General of the armed force under his jurisdiction, if designated by him, may settle and pay in an amount not more than \$100,000 a claim against the United States for—

(1) damage to, or loss of, real property, including damage or loss incident to use and occupancy;

(2) damage to, or loss of, personal property, including property bailed to the United States or the National Guard and including registered or insured mail damaged, lost, or destroyed by a criminal act while in the possession of the National Guard; or

(3) personal injury or death; either caused by a member of the Army National Guard or the Air National Guard, as the case may be, while engaged in training or duty under section 316, 502, 503, 504, or 505 of this title or any other provision of law for which he is entitled to pay under section 206 of title 37, or for which he has waived that pay, and acting within the scope of his employment; or otherwise incident to noncombat activities of the Army National Guard or the Air National Guard, as the case may be, under one of those sections.

(b) A claim may be allowed under subsection (a) only if—

(1) it is presented in writing within two years after it accrues, except that if the claim accrues in time of war or armed conflict or if such a war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not later than two years after the war or armed conflict is terminated;

(2) it is not covered by section 2734 of title 10 or section 2672 of title 28;

(3) it is not for personal injury or death of such a member or a person employed under section 709 of this title, whose injury or death is incident to his service;

(4) the damage to, or loss of, property, or the personal injury or death, was not caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee, or, if so caused, allowed only to the extent that the law of the place where the act or omission complained of occurred would permit recovery from a private individual under like circumstances; and

(5) it is substantiated as prescribed in regulations of the Secretary concerned.

For the purposes of clause (1), the dates of the beginning and end of an armed conflict are the dates established by concurrent resolution of Congress or by a determination of the President.

(c) Payment may not be made under this section for reimbursement for medical, hospital, or burial services furnished at the expense of the United States or of any State or the District of Columbia or Puerto Rico.

(d) If the Secretary concerned considers that a claim in excess of \$100,000 is meritorious, and the claim otherwise is payable under this section, the Secretary may pay the claimant \$100,000 and report any meritorious amount in excess of \$100,000 to the Secretary of the Treasury for payment under section 1304 of title 31.

(e) Except as provided in subsection (d), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

(f) Under regulations prescribed by the Secretary concerned, an officer or employee under the jurisdiction of the Secretary may settle a claim that otherwise would be payable under this section in an amount not to exceed \$25,000.